



1040 Commercial Street, Suite 109  
San Jose, CA 95112  
408.451.5000  
Fax 408.451.5143

October 23, 2003

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South Central District

Ms. Debbie Travis  
Kansas Department of Health and Environment  
South Central District Office  
Waste Management Program  
130 S Market, Suite 6050  
Wichita, Kansas 67202-3802

RE: Response to inspection at  
Clean Harbors Kansas, LLC  
2549 N New York  
Wichita, Kansas  
EPA ID # KSD 007246846

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RCRA RECORDS

Dear Ms. Travis:

On September 23, 2003, as a representative of Kansas Department of Health and Environment (KDHE), you presented a Notice of Compliance/Noncompliance derived from your inspection of September 9, 2003 of the Clean Harbors Kansas, LLC facility. The alleged violations are addressed in this response. The alleged violations are shown in **bold face** followed by the Clean Harbors response in *italics*.

1. **KAR 28-31-4(b) Failure to determine if a hazardous waste.**
  - a. **Three 300 gallon totes outside building I**

**Response:** *The three totes that were located on the North end of Building "I" were known to have been used for and stenciled for non-hazardous used oil. The totes had been stacked in the area for several years and had collected rainwater over time, which would be a non-hazardous liquid. The rainwater was removed from the totes and sent with other liquids from the site to a hazardous waste incinerator as the most conservative method of handling the rainwater. This alleged violation should be removed from the Notice of Compliance/Non-Compliance as this is non-hazardous rainwater.*

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OCT 27 2003  
South Central District

**b. Two 55-gallon drums east of the processing area.**

*Response: Two drums were located on the north end of the processing area and were exposed to the elements. These drums had no lids and held processing tools that were used in fuels processing operations. The assumption was made that the content of the drums could be contaminated with solvents and this liquid was also shipped to a hazardous waste incinerator as the most conservative method of disposing of the liquid.*

**2. Permit Part I, Section II. A, (40 CFR 264.31)**

**Failure to maintain and operate the facility to minimize the possibility of a fire, explosion, or any unplanned, sudden or non-sudden release of hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment. (1/28/03 spillage from tanker)**

*Response: The material spilled on January 28, 2003 was less than 5 gallons of fuel waste from the tanker hose connections while transferring waste between a tank truck and a tank. The fuel had spilled into a grated blind sump area that was designed to contain such small spills. Unfortunately, several factors played into not removing this from the blind sump in a timely manner. The wheels of the tanker were sitting on the grate, so the grate could not be removed to clean out the sump. The yard dog (transfer tractor) used for moving the trailer was offsite for maintenance. Since this occurred in January the temperatures were low and therefore the volatility of the fuel was low additionally reducing the threat to human health and the environment. This small release was well below a Reportable Quantity (RQ) under DOT regulations. Therefore this alleged violation should be removed from the Notice of Compliance/Non-Compliance. Clean Harbors personnel have been instructed to make every attempt possible to clean up such spills as soon as possible after it occurs.*

**3. Permit Part I, Section II.E (40 CFR 264.15)**

- a. Failure to document (RWO) remedy of deterioration or malfunction discovered by an inspection (1/28/03 tanker spill).**
- b. Failure to document observations on 5 inspection logs.**
- c. Failure to document the required information on the daily, weekly, monthly facility inspection logs (6 not dated, 9 not signed, 24 with no times noted)**

*Response: Facility personnel were provided additional training on the required elements of inspection reports. In addition, the facility manager will review the completed inspection records for completeness. If the facility manager determines the inspection reports are not complete, he will take necessary steps to properly complete the form.*

**4. Permit Part I, Section II F (40 CFR 264.16)**

- a) Failure to provide annual hazardous waste training for all employees.**

RECEIVED

OCT 27 2003

South Central District

**Response:** *The 2003 annual RCRA refresher training is scheduled before the end of calendar year 2003. The RCRA training requirement is to provide annual training on a calendar year basis. RCRA training is not required to be performed within 365 days after the latest annual training. This alleged violation should be removed from the Notice of Compliance/Non-Compliance.*

**b) Failure to provide hazardous waste training for John Martin within 6 months of a new position.**

**Response:** *While John Martin's title changed when Clean Harbors Environmental Services, Inc (CH) acquired the Chemical Service Division of Safety-Kleen, Inc., his duties were essentially identical. Thus, Mr. Martin did not need any additional hazardous waste training to perform the hazardous waste management function of his new job description. The major difference in his job duties was the use of the new computer tracking system. He has received on-going computer training since the acquisition. This alleged violation should be removed from the Notice of Compliance/Non-Compliance.*

**5. Permit Part I, Section II.J.2 (40 CFR 264.53)  
Failure to provide copies of the contingency plan to outside agencies.**

**Response:** *The outside agencies had copies of the Contingency Plan for the facility. An updated version was sent to the agencies during the inspection. This alleged violation should be removed from the Notice of Compliance/Non-Compliance.*

**6. Permit Part I, Section II.J.3 (40 CFR 264.54)  
Failure to update the emergency coordinator documented in the contingency plan.**

**Response:** *The emergency coordinator list in the Contingency Plan was updated during the inspection and sent to all appropriate agencies. This alleged violation should be removed from the Notice of Compliance/Non-Compliance.*

**7. Permit Part I, Section II.J.4 (40 CFR 264.55)  
Failure to have a trained emergency coordinator available at all times in case of an emergency.**

**Response:** *Trained Clean Harbors personnel are available on site, or within a few minutes drive of the facility at all times. Mr. Brian Key, the primary coordinator listed in the contingency plan, has the responsibility to coordinate any emergency response measures and is available 24 hours a day, when not actually on site, he is available via cell phone. Mr. Key has the authority*

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OCT 27 2003

South Central District

*to commit the resources needed to carry out the contingency plan and the knowledge to provide guidance to handle any emergency or spill that may arise. An alternate coordinator was added with the latest update to the emergency coordinator list. This alleged violation should be removed from the Notice of Compliance/Non-Compliance.*

**8) Permit Part I, Section II.K.3 (40 CFR 264.71)**

**Failure to comply with manifest requirements. Two manifests had no emergency contact number; 2 manifests were not signed by the TSD; 3 manifests were not dated by the TSD; and 1 manifest the transporter did not note the pick up date.**

*Response: Facility personnel have been informed of the importance of complete and accurate manifests. The annual training will provide a review of required manifest information.*

**9) Permit Part I Section III.K.(40CFR 264.171)**

**Failure to manage incompatible waste in accordance with the procedure in Special Requirements for Incompatible Wastes. (12/7/02 building "B" storage of acid and base drums)**

*Response: The container of incompatible waste stored in the wrong area was corrected in a timely manner after it was discovered, however personnel failed to document the correction. Personnel have been instructed, as mentioned in item 3 above, to ensure that inspection issues are properly documented and resolved in a timely manner. This issue was resolved in a timely manner and did not pose a threat to human health or the environment, therefore the alleged violation should be removed from the Notice of Compliance/Non-Compliance.*

**10) Permit Part I, Section III.C. (40 CFR 264.195(b))**

**Failure to properly handle a hazardous waste storage container (55 gallon metal drum) that is not in good condition.**

*Response: The metal drum had a large crease due to mechanical impact, however the container was still intact with no signs of leakage, corrosion, or degradation of the drum and thus Clean Harbors did not believe that the drum needed to be overpacked. Due to concerns expressed by the inspector, the drum was overpacked during the inspection. Clean Harbors receives drums that have experienced mechanical impacts but still maintain their mechanical integrity. Clean Harbors does not see the need to overpack slightly damaged drums unless other conditions are observed (e.g., leaking, corrosion, etc.) that lead us to believe that the drum will not maintain its integrity. We do not believe this is a violation and should be removed from the Notice of Compliance/Non-Compliance.*

**11. Permit Part I, Section IV.F.3. (40 CFR 264.195(b))  
Failure to inspect Tank V-1 on 11/02/02 – 11/03/02**

*Response: The staff member performing inspections was unaware that the tank had been placed in operation. All inspectors will be trained to be more diligent in their knowledge of the facility before conducting inspections*

**12. Permit Part I, Section I.E.6 (40 CFR 270.30(e))  
a) Failure to maintain the roof of building D.**

*Response: As per our response as Safety-Kleen, the repair of the roof on Building D is cost prohibitive. No waste is stored in this building and the tanks in the building have been cleaned and contain no waste. The leak in the roof does not compromise the integrity of any waste or waste containers. Clean Harbors will continue to manage the water that enters through the roof when it rains. This alleged violation should be removed from the Notice of Compliance/Non-Compliance.*

**b) Failure to provide adequate staffing for the TSD.**

*Response: Most all of the alleged violations occurred while the facility was fully staffed. Clean Harbors contends that more than enough personnel are present to adequately operate the facility with the current waste load and perform the required functions necessary in the permit. The field staff located at the facility will be trained in the duties that may be required to support the facility staff (i.e., facility inspections, inventory segregation, facility maintenance). This alleged violation should be removed from the Notice of Compliance/Non-Compliance.*

Your careful consideration as appreciated for reviewing these items and we look forward to seeing many of these items being removed from the list of noncompliance.

If you need any additional information, please do not hesitate to call me at 602-462-2315.

Sincerely,



Lon Stewart  
Regulatory Compliance Manager



10-11-12